

**Call to Order:** Meeting was called to order at 7:10 p.m. by Chairman Hoopes  
Present: Tom Varney, Bruce Holmes, Chairman Tom Hoopes, Jeremy Dube, Cris Blackstone, and Jeanne Crouse

**Appointment of Alternates:** None to appoint for this meeting.

**Approval of Minutes:** Approval of December 20, 2005 postponed to the next meeting.

Approval of Agenda: Add to the Agenda under New Business, discussion about a workshop session with the Historical Society with Philip Lorian. Case P06-01 Map 11, Lot 25 by Peter and Tracy Long on Lakewood Drive and Spring Street have withdrawn the application to renote due to problem with abutter notification. Also the same situation for Case P06-02, Map 14, Lot 5-2 a three lot Subdivision on Jesus Valley Road proposed by Ronald J. O'Brian, Jr. has been withdrawn to renote, problem with abutter notification. Both cases will be renoted for next meeting. Planner wanted it noted that both cases have been submitted by Brian Bailey of Turning Point Land Surveyors and Mr. Bailey had used a mailing list that he had in his files and not coming in to the Town Hall to have a fresh mailing list.

**Motion** by Jeremy Dube to approve the January 24, 2006 Agenda as amended. Second by Jeanne Crouse. Voted unanimously.

**Public Input:** None seen or heard, public input closed.

### **Applications for Public Hearing**

#### **Case P06-03**

#### **Map 12, Lot 21 and 21-8**

#### **Conceptual Consultation**

#### **Robert DeFillipo**

#### **88 and 94 Lily Pond Road**

Request submitted by the property owner for a conceptual consultation to discuss converting two existing 4-unit multi-family rental properties to condominiums. The properties are located on Lily Pond Road and in the rural zone.

Dennis Rialland, survey manager with Brown Engineering representing Mr. Robert DeFillipo of DeFillipo Investments acting as his agent.

D. Rialland: Expressed his apologies for his last minute assignment of this case due to the fact the engineer that prepared this application is no longer with Brown Engineering and also asked for input regarding direction of this case. He also noted that there is a lack of understanding on the part of the applicant for the process of going through a conversion.

T. Hoopes: Informed that the Town Attorney has stated he feels it is necessary to go through subdivision and conversion. If they are converted and not separated you cannot sell them

K. Menici: Town Zoning requires a two step process. State statute requires that condominium conversions file a condominium conversion site plan with the registry. The Town of Alton requires a two step process; one step is site plan review, looking at lot configuration with regard to the location of the existing structure, septic, well location, parking, trash removal, signage, also subdivision that is required. Each purchaser of a condominium is going to purchase a specific unit and each unit needs a specific property description. Condominium conversions are new to the Town of Alton and they are working to clarify this process and also for future applicants. They will need to provide two different plats, one for set backs, topography, wetlands, what you would typically expect to see on a site plan and the second subdivision plan showing common areas and limited common areas as well as the foot prints of individual units themselves.

D. Rialland: Appreciates the input. Stated that his understanding the State does not recognize condominiums as a subdivision unless there are individual portions of land that become limited common areas for a particular single or group of units. In this case they are not changing use of the existing situation; they are at this time used as apartments for dwellings. Ownership is the only thing changing. Expressed a desire to work with the Town and follow procedure, but are not used to the Town of Alton procedures.

K. Menici: Inquired as to the existing apartment style; garden style or townhouse style.

D. Rialland: Does not know the style of the apartments.

T. Hoopes: Stated that the Attorney informed Tom Hoopes that the two cases run simultaneously and are acted on individually. You only have to go through one process.

K. Menici: Stated again with any type of residential development you have two different components that the Town is working on clarifying.

T. Hoopes: Agreed and also the Condominium language.

D. Rialland: Stated that concerning the Chapter 356 it spells out the wording that the State requires that would have to go on the plat addressing exactly what the Town Planner has described; common area, limited common area, detailed drawing showing individual units and the vertical and horizontal area that they are purchasing and will fall under their ownership. Stated that in a loose interpretation it is a subdivision in that sense by the State does not define it that way, it defines it as a condominium. The only difference is how to handle this with the Town of Alton and asked for input as to how do they fill out the application since they are not dividing lots; it is not a subdivision by definition.

K. Menici: Informed that Town counsel is of the opinion that when you have a single structure with more than one dwelling unit in order to transfer those dwelling units separately that there does have to be a subdivision plan that accompanies the application.

D. Rialland: Inquired as to how the fees will be charged?

K. Menici: They are still working on this and they will be meeting with Town counsel on January 25 and he can call on the 26<sup>th</sup> for clarification.

D. Rialland: Stated that Mr. DeFillipo in dealing with other municipalities, most recently the town of Pittsfield, regarding condo conversion was questioned as to why he was presenting this to their planning board. There were no fees, applications, etc. but he was presenting this as a courtesy.

T. Hoopes: Every town does things different and the Board is doing what the Town counsel has advised the Planning Board to do.

D. Rialland: Stated Mr. DeFillipo will fight any fees he deems what is above and beyond unnecessary.

T. Hoopes: Confirmed he has the right to do so, but again stated this is an ongoing process, and the Board is doing what they have been advised to do.

K. Menici: Informed that Fee schedules are up to the individual municipality not governed by State statutes.

D. Rialland: Agreed.

J. Dube: Noted they are running out of time for the conceptual presentation.

T. Hoopes: Advised the Board is going by its attorney instructions and also to cover expenses for the Town.

D. Rialland: As far as the information on the plan, the existing conditions in particular, as far as topography, wetlands, delineation, obviously all the details that were mentioned; the datum, both horizontal and vertical, will this do or does the Town either require State plan coordinate and NGS datum for vertical control.

T. Hoopes: Inquired of the Planner if this has to be tied in?

K. Menici: Stated they have to have a benchmark.

D. Rialland.: Asked if that has to be on USGA datum.

K. Menici: Stated not necessarily and asked to speak with Mr. Rialland regarding this and not using the time tonight. That there are a number of different benchmarks that are permitted.

T. Hoopes: Asked if there are any further questions.

R. Rialland: Thanked the Board for the information and has no further questions and will proceed accordingly.

**Case P06-04**

**Map 27, Lot 52**

**Conceptual Consultation**

**New Hampshire Electric Cooperative**

**Main Street**

Request submitted by the property owner for a conceptual consultation to discuss a 2-lot subdivision of the parcel where the NHEC substation is located. The property is located on Main Street and in the Residential-Commercial Zone.

Dave Horton from New Hampshire Electric Cooperative is present to make the presentation this evening.

D. Horton: Distributed marked up survey maps. Informed they are trying to achieve is to maintain ownership of their subdivision which is located behind the current building on Main Street and basically sell the Main Street facility to build a new facility.

T. Hoopes: Confirmed to sell the garage and keep the storage area.

D. Horton: Corrected that it is the fenced in area which encompasses approximately 40-60,000 square feet of swamp also with frontage on Route 28.

T. Hoopes: Asked about something he saw about access to Route 28.

Dave: Informed that would not be possible.

T. Hoopes: Stated that's why he asked that unless it is deeded on the land you don't get it.

K. Menici: Stated there is an opportunity for town to apply to the State on a limited access highway for a driveway permit but the primary issue with access off of Route 28 is wetlands and slope. Even if the Board of Selectmen wanted to go to DOT and apply for a driveway permit there are environmental constraints that make it impractical there.

D. Horton: Stated that they are hoping to use the driveway that serviced the back of the building for access to lot 2 and maintain the street frontage for access to lot 1.

T. Hoopes: Asked if there is adequate frontage for both?

K. Menici: Stated the frontage for the rear lot would remain on Route 28 but the driveway access would be off Main Street and would require a variance and also stated that what Mr. Horton would like to know tonight is if the variance is granted from the ZBA how the Planning Board feels about that lot configuration.

T. Hoopes: Sees this as beneficial to the Town of Alton. This is not a private enterprise.

K. Menici: Stated that NHEC is just trying to expand their operations in this area because of the growth that the area has experienced and the current location does not allow enough room to grow and store and maintain the equipment that they need to provide the service that the area is demanding.

D. Horton: The property has value but not to NHEC and this will help alleviate some of the costs in constructing a new facility in town.

B. Holmes: Asked if they are selling off the front lot, are the new owners going to have access to the rear of the building?

D. Horton: Informed not as far as being in the subdivision plan. Access could be granted.

K. Menici: NHEC would give them an easement but it would not affect as to whether it is a conforming lot or not because they will have more than adequate frontage, their beneficial access to the primary structure will be right off Main Street but there may be occasions where they want to access the back lot and NHEC would give them, in the deed, access easement down the driveway to access the back area.

T. Hoopes: Asked if there is a need for any kind of structure for substation itself.

D. Horton: Stated not at this time. If there was a structure it would be within the footprint of the substation itself. This usually involves metering equipment that needs to be housed because of weather.

T. Hoopes: Confirmed that the only reason to go there is for maintenance, service, etc. and not driving in daily.

T. Horton: Confirmed, yes.

J. Dube: Stated to get the variance it look feasible to him if they meet the lot standards and get the variance.

K. Menici: Stated both lots meet the minimum lot area. The concern that Mr. Horton had in bringing this forward, because the Ordinance requires that the beneficial access to the property be off of its frontage, because of the environmental constraints on the property that cannot be.

Dave: Said they wanted to know if the Planning Board had any concerns for moving forward with this proposal.

T. Varney: Asked if you can get 75ft on the other side of the building?

K. Menici: Stated no, on the north side it is too steep.

J. Dube: Stated the applicant wanted to utilize existing driveway.

D. Horton: Confirmed yes.

T. Hoopes: Stated that in part this is not the normal type of subdivision; but certainly is for the public good.

T. Varney: Just stated his concern for following the rules and trying to make this work. Wants them to try to get the frontage.

K.Menici: Asked Mr. Varney what he would suggest.

Menici and Varney had discussion standing over the plans and not indicating specific areas. Hoopes joined in measuring the plans with regard to frontage.

T. Horton: Stated most of the parking is on the side of the building where the paved areas are.

T. Hoopes: You could really make it complicated by having easements. . .

J. Dube: Informed the Chairman that time is running out for this application.

K. Menici: Stated that something for the Board to consider; with that particular structure when sold will most likely remain commercial use and will need to consider parking. It will be difficult to get 75 ft. on the rear lot for access on the Main Street. Basically, the applicant is looking for advice and input of what they are looking to see.

J. Dube: Stated you can't have access on that 75 ft anyway where it is and you still need a variance.

T. Hoopes: Stated he does not see the need for making this complicated. Understands Mr. Varney's point that there are rules and regulations that need to be followed but this is not going to be a normal function lot. It can't be used for any other purpose at any time anywhere down the road. Asked for more questions from the Board.

D. Horton: Thanked the Board for their time and will proceed with going to the Zoning Board.

### **Continued Applications:**

<b>Case#PO5-77</b>	<b>Map 36, Lot 28</b>	<b>Site Plan Review</b>
<b>Brandt Development Corporation</b>		<b>167-173 Mount Major Highway (Rte. 11)</b>

The application is continued from the December 20, 2005, meeting.

**Tom Varney is stepping down from this case.**

Representing this case are Hank Brandt and William Tanguay, Attorney for Mr. Brandt.

K. Menici: Stated she has not received the typical monthly report because it has been continued. At the November meeting the Board continued the application in order to meet with Town counsel to obtain advice regarding the application process. Because the Board did want to get additional advice at the time the report was prepared there were no additional materials that were submitted for this meeting. However, the property owner did come in today and submitted another site plan. We do not have an 11x17 and this is not in the Board's agenda packet. Asked if the Board wants to look at this particular site plan or wait and take that up as part of the subdivision application. Basically, they have submitted a second site plan that just shows the

proposed individual condominium units, the limited common areas, the common areas with no topography or wetlands noted on it.

T. Hoopes: Stated he thought it would be helpful to see the new site plan.

The Planner distributed materials including an 11x17 to the Board of the proposed condominium and the purpose of the 11x17 is to depict the designated parking areas for the individual units.

T. Hoopes: Asked if there will be three parking spaces for the first three units?

K. Menici: Confirm yes, and in addition to the garage.

H. Brandt: Described parking for units. Unit 3 has three internal garage parking spaces. Unit 4 has two internal garage parking spaces. Units 1 and 2 have no internal parking. The purpose of this sketch is from a question raised at a previous meeting asking if they could fit parking spaces on the property without using any of the land that sits within the right-of-way. They asked their engineer to draw what would be considered a standard parking space for parallel parking space which are the 10x20 and how they would look as well as a pull-in parking space that is listed on the side measuring 9x18 to give the Board some idea how much parking could actually be done on the site.

K. Menici: Clarified the garage information and noted that there has to be a minimum of two parking spaces on site for each unit.

W. Tanguay: Stated the sketch shows 4 parking spaces for units 1 and 2.

K. Menci: Stated the spaces would need to be assigned.

T. Hoopes: Noted there are 5, one of the spaces is over on the boundary line.

W. Tanguay: Stated assignment of spaces can be addressed in condominium documents.

B. Holmes: Asked about parking for unit 4, questioned if one of the parking spaces is in front of one of the garages.

H. Brandt: Stated it was and was to be corrected by moving it tighter to the wall.

J. Crouse: Asked if this application has been accepted yet?

K. Menici: Confirmed that the site plan has been accepted. Subdivision application has not been submitted.

C. Blackstone: Asked for clarification about size of spaces.

H. Brandt: 10x20 is for parallel, 9x18 is for pull in space. Stated this plan is to show that all the spaces can be accommodated on the property.

K. Menici: Thinks the Board needs to be concerned of the practicality of the location, with concern to parking spaces and the units designated to use them. Town regulations state very clearly that Mr. Brandt would have to provide a minimum of two spaces per unit on site. Unless these parking spaces configured on the plan are clearly delineated by striping on the lot. If not marked there is the possibility of people parking in the State right-of-way. That is not permissible under the Town Zoning Ordinance. This should be a condition of approval unless the applicant wants to try to obtain a variance.

J. Dube: Stated that it is not feasible to place a parking space on the other side of a wall.

T. Hoopes: Questioned if a parking space permissible for set-back from a property line? Should you have a parking space blocking a set of stairs?

K. Menici: Felt the Fire Chief would have concerns about that and would like to submit this plan to the Fire Department. This document was just received at the meeting and the plat was hand delivered this afternoon and not able to present to department heads for comments.

T. Hoopes: Feels that they need to address some of the features brought to the Town attorney a month and a half ago. Concerns that Attorney Sessler expressed were: 1. The wall in the State DOT right-of-way. State RSA says is cannot be done. If it is to be done the Board needs a letter from DOT (Mark Pillsbury in Concord) stating that this is permissible. 2. Fire chief cannot gain access through the opening; it is blocking access. The wall is in the existing right of way. 3. Locations for garbage. 4. Assigned parking 5. lighting 6. A clear plan showing topography. 7. Assigned spacing on the docks. If they are going with the units they must be assigned. Cannot be rented out. There was a question about using back for parking.

Brandt: Stated that if that spot is moved over the stair blocking problem will be taken care of. Said it was not his intent to present this to the Board tonight. It was to just show what parking spacing would look like. Spacing assignment was not intended for this drawing.

K. Menici: Agreed if the space was moved the stair cases would remain open.

T. Hoopes: Stated he can't imagine trying to parallel parking in this location. It's not logical, practical and in all probability, people will be parking in the right-of-way.

J. Crouse: Added that the logistics to traverse the concrete wall to get to the spots for the units is difficult.

K. Menici: In meeting the Town requirements there has to be a rational and reasonable approach that people are going to use. When the Board is reviewing that it should be a consideration.

C.Blackstone: Asked for the rationale of concrete wall.

W. Tanguay: Referred to a letter of July 17, 2005 from Mark Moral to Ms. Menici providing some background and sets forth some history. Basically this spot has been a problem and used as a turn around. Stated the wall was the State's idea.

K. Menici: Commented on Attorney Tanguay's statement that the wall constructed despite instruction going back to the original permit that was issued that clearly stated that there were to be no structures and no parking in the State right-of-way. Asked why the retaining wall wasn't built within the property boundaries rather than extending out into the right-of-way.

H. Brandt: Stated that building the retaining wall back at the property boundary would not stop the turn around problem that the State sought to quell. Mr. Brandt said the State dictated the location and opening of area, and feels they have worked tremendously with their suggestions. Referred to a letter from a local engineer and State engineer that they are both very pleased with what they have done.

K. Menici: Corrected that both letters are from the local office. Mark Moral works out of local office; he is the district engineer for District 3. States her instructions from DOT were different that what the applicant is stating.

W. Tanguay: Referred to a letter of July 17, 2005 from Mark Moral stating that the driveway that was constructed best met the highway geometric challenges at that location. The driveway has been through a winter season with no problems with regard to maintenance or the traveling public. At this time no driveway alterations are necessary. Referred to another letter of December 9 2005, copied to the Town that the site has been a concern with the wide open access and wall prevents traffic concerns and should be considered a safety improvement.

T. Hoopes: Stated he does not accept the story that the turn around is as a safety problem. Feels this is away to privatize property. In Chapter 236:16, Title 20, Transportation, Highway Regulation Protection and Control Regulations, Obstructions and Encroachments. States any person so erecting or continuing any building, structure, or fence to as to interfere with, hinder or obstruct public travel shall be guilty of a violation. Feels this is not necessarily in the best interest of the Town. The Town Road Agent, in his letter to the Planning Board stated of the concerns that all had been corrected. No parking in the State right of way.

J. Dube: Felt they just need a letter from the State if they told them to do this then the letter will show this.

W. Tanguay: Stated they did not get specification of attorney concerns and asked why he was not notified of these concerns.

T. Hoopes: Stated they cannot discuss the attorney concerns without a public meeting.

C. Blackstone: Informed that State issues are one thing but as the representative for the Selectmen felt the Town department heads should have input and are respected for their opinion.

T. Hoopes: States letter from Chief Johnson indicated that a fire truck can access right of way.

C. Blackstone: Also added that she has never heard of the State interfacing with a private person like Mr. Brandt and Mr. Tanguay have indicated.

H. Brandt: Questioned the wording of structure and said this wall is not a structure.

K. Menici: Informed that a structure is anything that is permanently affixed to the ground so that would include a stone wall and actually the Town set-back requirements state very clearly that buildings and structures, recognizing that a structure can be something separate from a building, excluding septic systems and fences shall be set back a minimum of 30 feet from the shore, 25 feet from the right-of-way line of any street or highway whether public or private. States that this wall will require a variance.

Attorney: Feels they are stuck dealing with two masters. The State and the Town of Alton.

T. Hoopes: Informed they are dealing with the Town and also a State right-of-way.

K. Menici: Feels the Board should make a determination based on the language in the driveway permit.

J. Crouse: Asked if the structures year-round?

H. Brandt: Informed that Unit 1-3 seasonal, Unit 4 year round.

J. Crouse: Asked if Unit 4 has a well?

H. Brandt: Confirmed, yes.



K. Menici: Informed the issue with the driveway permit that has become a concern is item number 4.

C. Blackstone: Stated the applicant mentioned it was strong enough and the interface person stated it was strong enough to take care of the weight and rush of the snow. So why is that not now a structure, fence, wall, etc.

H. Brandt: Stated the language is very standard; included in all permits that are issued by DOT. The idea is that the DOT does not want individual seizing that land or putting things on the land in such a way as to establish an existence.

C. Blackstone: Asked if he felt the stone wall does not establish existence?

H. Brandt: Confirmed it does but also stated it is there because the State wishes it to be there.

C. Blackstone: Questioned why didn't the State take out item 4 in their language?

K. Menici: Added that this is the permit that they submitted to the Town.

H. Brandt: Stated the date of the permit was issued in June of 2004 and the letters received are in 2005; post construction.

B. Holmes: Agreed that is the State did not want it there they would have told him to take it out.

K. Menici: Stated her discussions with DOT have been very different. Also stated this is a Zoning Ordinance violation and variance needs to be approved before any action can be taken.

J. Crouse: Agreed that this is in violation.

T. Hoopes: Feels this road is narrow and restricted and feels you can't move out and claim it to the edge of the road.

C. Blackstone: Added the State has ample traffic calming and traffic controlling ways to target problem areas on their own. She has never known them to ask private people to control something they have targeted.

W. Tanguay: Expressed that they are here to try to resolve problems. Noted the discrepancy between the State and the Town and asked who do they want a confirmation from to indicate this wall is acceptable.

T. Hoopes: Stated the town attorney would like to see written permission from DOT and from Mark Pillsbury in Concord.

K. Menici: Clarified that there is still an issue with the Town Zoning Ordinance and before the Board can approve any kind subdivision and ultimately condominium conversion as a subdivision, they either need a variance for the stone wall or they need to remove it to be in compliance with the Town Zoning Ordinance.

The Town Planner read the Section 227 in the 2005 Ordinance, Section 327 in the 2006 Ordinance. Set Back Requirements. A. Buildings and structures excluding septic systems and fences shall be set back a minimum of 25 feet from the right-of-way line of any street or highway whether public or private.

W. Tanguay: Referred to the requirement the Planner read from stated the wall should be set back from the right-of-way line of any road or street. Stated the right-of-way line is not the highway line, it's the line that is where the iron rod is and there is a line across. If there is any violation of the Zoning Ordinance, and they

don't think there is, it's in that part of this wall that lies between the right-of-way line and the building. Whatever is outside of the right-of-way line is not within the Zoning Ordinance.

J. Crouse: States technically Mr. Tanguay is correct. The question is whether or not a person has the legal right to build on the State's property. Feels this is the issue with citizens taking over the highway.

Brandt: Stated again that DOT came to the applicant in the form of a Cease and Desist Order and after discussion asked them to build this structure.

T. Hoopes: Suggested that they need a conference with DOT, the applicant and the Town to see where this stands.

H. Brandt: Asked exactly what is it that you need for clarification?

K. Menici: Stated they will be meeting with Town counsel tomorrow and will get necessary language and relay this to the applicant. Also the other issue of Fire Chief concerns with access for emergency vehicles.

C. Blackstone: Added the concern with Police interface and others involved as to how cars cued up to exit the property.

T. Hoopes: Stated the Police chief had no concerns but Ken Roberts had concerns, Brian Boyers had no concerns.

H. Brandt: Stated that Fire Chief had no concerns when speaking with him. The Units are equipped with monitored systems and concrete clapboards, windows are minimized on facing sides with foam insulation.

T. Hoopes: Informed that he spoke quite strongly to him about it.

J. Crouse: Stated that the initial intent was for a single family compound and now this has changed to condominium.

H. Brandt: Confirmed, yes.

K. Menici: Informed that there is another issued based on Mr. Brandt's comments that the change of use requires a special exception as well as of the variance. Referred to Section 220, non conforming use, paragraph A, subparagraph 3, Change of use. An owner of a legally existing, non conforming use may not change the use to another non conforming use without first obtaining a special exception from the ZBA. The ZBA shall not grant such a special exception unless the proposed non conforming use is substantially less offensive to the neighborhood than the existing non conforming use.

H. Brandt: Stated he feels conversion to a condominium is not a change of use only a change of ownership.

K. Menici: States that it is.

W. Tanguay: Feels he has cited the case law very clear.

K. Menici: Clarified that those 4 cottages that were there were rented out and vacation rentals so it was basically a motel type, seasonal cabin type use and now what they are proposing is a single family dwelling is so this is a change of use.

Attorney: Continued that the case of Cohen vs. Town of Henniker, at 134 New Hampshire that he has cited in his materials in September, that case makes it clear and involves rental that was turned in to condominium and the Board accepted the plan.

K. Menici: Questioned what type of rental. This rental type makes a difference.

T. Hoopes: Stated the Town attorney clearly made it obvious that this is a two step process. And if you do not plan to go through the subdivision as well it would probably be best to dismiss the case. If you wish to do this you do this in this Town as the attorney requests you just don't do it.

W. Tanguay: Referred to Mr. Hoopes comment about a two step process and does not find this in the Zoning Ordinance. States that Chapter 229 deals with Condo conversion and that's what the Board is treating this as. It states you need subdivision approval. Feels their application was a subdivision application. Stated that the Ordinance doesn't call for a site plan review.

K. Menici: Corrected that the Ordinance does call for both, on page 9 of the Zoning Ordinance, the applicant shall be required to obtain Planning Board approval of the following: Subdivision, site plan, form of ownership including condominium instruments.

H. Brandt: Stated that was for new construction, and that his was not new construction.

K. Menici: Stated he demolished the existing units and rebuilt new.

W. Tanguay: Stated that this is the rebuilding of an existing building on an existing footprint for which the ZBA gave approval. Stated they the Planning Board has treated this as a condominium conversion from the outset.

T. Hoopes: Disagreed that they have not treated this as a condominium conversion. Stated that Mr. Tanguay informed the ZBA that the rebuilding was not going to be for condominium conversion. Stated that the ZBA should have listed this as a condition.

K. Menici: Stated that the conditions be listed in writing to Mr. Tanguay from Attorney Sessler so there will be nothing left to interpretation.

W. Tanguay: Stated he feels the site plan and subdivision plan are the same information, just a filing of another piece of paper.

T. Hoopes: Open to the public input. No input.

**Motion** by J. Dube to continue Case P05-77 Brandt Development Corporation, Map 36, Lot 8 to the February 21, 2006 meeting. Second by B. Holmes. Discussion: Is there in Town record the plans approved by Zoning in case Z03-13-1. Members given copies – note on special exception. Jeanne Crouse requests that the members of the Board are given a copy of this as it pertains to the driveway. Discussion of ZBA decision on minutes of May 3, 2001, stated the applicant would like to close off access from Route 11 except for a driveway for Tax Map 36, Lot 29 to have access off Spring Street. Cris Blackstone suggested the ZBA minutes be brought to Attorney Sessler for review with this application.  
Voted Unanimous.

Brief Recess at 8:55 p.m., Reconvened at 9:03 p.m.

**Case#PO5-83**

**Map 34, Lot 37**

**Site Plan Review**

**Daryl Breed Hoitt**

**Mt. Major Highway (NH Rte. 11)**

This application is continued from the December 20, 2005, meeting.

**Tom Varney recused himself on this case.**

Representing Case: Melissa Gulbrandsen, Daryl Hoitt, Lee Maserian and Mike Salva, Developers who have Purchase and Sales on the property.

K. Menici: Stated the Board voted to continue acceptance of this application for condominium conversion and clarity.

M. Gulbrandsen: Gave a summary of where they are in the process. Stated they submitted an application for site plan review for the project and was before the Board at the November, 2005 meeting when the question on growth management ordinance and whether they had all the zoning variances and special exceptions that were necessary for the project and the questions of subdivision application and site plan review. They met with Attorney Sessler and concluded growth management would apply, so they decided to wait after growth management lifted in January. Based on Attorney Sessler's opinion that there needed to be two applications they submitted the subdivision application in mid-December. The Board has two complete applications. The Planning Department did not send out notices for the subdivision applications.

K. Menici: Added that this was a mistake on her part.

M. Gulbrandsen: Their goal for tonight would be to have the site plan application accepted and have the application approved. The project proposed is clearly beneficial to the Town. It is a large structure, historical value and would like to create 7 residential condo units, with additional unit for commercial use. Copies available for the members and distributed.

K. Menici: Stated that the action taken by the ZBA was presented and approved 3 variances. Article 300, Section 343 Minimum Lot Requirement, Article 300, Section 301, Multi-family Dwelling with more than 4 dwelling units and Article 200, Section 225 a minimum parking requirement. Based on the discussion that just took place with the previous application, there will need to be a special exception for change of use.

M. Gulbrandsen: Stated this was discussed with Sessler, stated they prepared an application for change of use but determination was that in going through the approval through the planning process that this would address any potential change of use and implicit in the other applications before the Zoning Board was the change from the structure which has an approval to be used as an entertainment venue to the proposal that we had before us but this was clearly addressed this with him. She specifically asked him as to whether another variance was required and he clearly said no and they had a green light to come before the Planning Board.

C. Blackstone: Asked a question regarding the direction of the units.

M. Salva: Units are from front parking to the back.

T. Hoopes: Inquired of the Board if they have enough information to accept the application.

Some time was taken for the Board to review the materials distributed.

**Motion** by Jeremy Dube to accept Case P05-83, Daryl Breed Hoitt, Map 34, Lot 37, Seconded Bruce Holmes. No discussion. Voted unanimous.

T. Hoopes: Inquired that in reading the condo agreement would like to have all the condo owners in agreement to any changes.

M. Guldbrandsen: Confirmed that they drafted an amendment to the current condominium declaration. Also as part of the subdivision application they have submitted condominium declaration documents for their condominium of unit 2. Stated there are two separate condominium declarations applicable to this area. Owners of Unit 1 are present tonight to offer support. They do not anticipate any objection to the three condominium owners to what is being proposed. The amendment to the original declaration which would allow the condominiums within unit 2 will be recorded. They intend to keep with the overall look of historical building.

T. Hoopes: Asked if they would like to make a presentation?

Lee Maserian: Stated he is a resident of Alton; mother lives across the street from property on the Conference Center. He has looked at this property for some time. Approached Daryl Hoitt to see about what kind of use could be done. Came up with a solution and was informed that her approved use was no longer valid based on the septic capacity of the existing structure. Daryl had gone through the State and had a 9 efficiency motel unit approved. One possibility was if business could sustain seasonal use. With careful consideration and keep aesthetics of area and maintain the retail area of a portion of the building they made a proposal to the owner. Initial concept was to create the front store concept creating a buffer zone between the residential areas. The other two units have had changed of use. They are proposing 7 units per septic usage allowed. Based upon the septic capacity of 2795 gallons. The two adjacent units (1 and 3) are deeded specifically for 300 gallons for each unit. This was put into the condo use. With the seven units this brings the use to 2100 gallons leaving 95 gallons in capacity taking into account the 600 from the adjacent units. Looked at parking requirement per unit, based upon the amount of spaces met the requirement of the 14 spaces. Zoning thought it was good use of property. Percentage of waterfront is roughly divided into 30 ft slip for each unit. They will mark parking and boat slips. Slips would go with units, not rented out. They intent to keep integrity of the structure. Four units would be sold and the other three would be retained as a rental and would like them to all be deeded as separate. They will maintain the property with a maintenance agreement, plowing, trash, and landscaping, common areas. Property is valued at \$800,000 plus and this project will turn into a significant increase. The retail will be subjective. They are doing the design. Feel that too much retail is risky and want to keep it to the small use they are proposing. Using the retail for sound buffer. Element on the top, to mark as landmark, red roof, added observatory. The building is on piers and will have a significant amount of work to change from seasonal to the winter use. Storage is going to be used for lower level. Sees a benefit for a second means of egress through that lower level. The intent is to actually divide the deck areas making them specific to each of the units. Then going down through the staircase using this as a second means of egress. Storage is what is being considered for the lower level.

K. Menici: Lower level concern was based on the septic loading.

D. Hoitt: This can be added to the Condominium declaration.

L. Maserian: Noted they are willing to sprinkler the building with alarms. Stated there was question about handicapped parking and this is not required for private use. Building will be handicapped accessible.

T. Hoopes: Asked for questions from the Board.

C. Blackstone: Inquired if the light from observatory goes into unit four.

L. Maserian: Confirmed yes. Also stated they plan to use the original maple floors.

D. Hoitt: Informed that the original was two stories, rebuilt in 1928 after a fire.

T. Hoopes: Stated the main question is the septic system.

D. Hoitt: Stated the septic is able to handle all proposed use.

T. Hoopes: Stated he wants all approvals in writing.

K. Menici: Spoke with Bill Evans on this project and stated they are getting close for approval for where they need to be.

D. Hoitt: Stated they have received septic approval from DES for capacity the 9 unit plus commercial.

T. Hoopes: Question are with regard to the minimum distance from lake for septic. When the new septic was permitted in 1996 there was documentation from the Selectmen and DOT allowing it; will there be an ongoing permission to allow a rebuild if that is necessary?

M. Gulbrandsen: Stated they have an easement from the Town of Alton for the area, goes from the Town of Alton to Laconia Savings Bank who originally foreclosed on the property and they conveyed it to the Downing's who did the condos and the Downing's to Daryl Hoitt.

T. Hoopes: Question using septic and who is using it at the present time.

M. Gulbrandsen: Informed that the only users on septic are the three condo units. Shibley's is not connected.

T. Hoopes: Asked about certification that what was designed was built?

M. Gulbrandsen: Confirmed, yes.

T. Hoopes: Reiterated that the controlling factor is the septic system.

M. Gulbranden: Recommends that any approval would be conditional upon State approval.

T. Hoopes: Stated he would also like to add conditions such as, no additional bathrooms, and no additional bedrooms. The other question comes up with figuring out that 150 gallons per bedroom.

L. Maserian: Stated that that is a State regulation for 150 gallons per bedroom. An efficiency is 225 gallons; for single bedroom efficiency. Stated they have a current approval from the State that stamps the septic capacity. He spoke with Bill Evans and asked how you divide this up.

T. Hoopes: Said he is looking at this strictly from the point of view from the fact that it is so close to the lake. The lake is a very congested area and simply wants to make sure for adequate capacity

M. Gulbrandsen: Stated that they can add limitation of bathrooms. There is already a limitation for bedrooms.

K. Menici: Stated this discussion is outside of the Board's approval.

C. Blackstone: Inquired as to the limitation on boat length.

L. Maserian: Stated that owners will be pretty adamant about not going on beyond their slip.

T. Hoopes: Stated that the State definition of a boat slip is 6 ft x 30 ft. Questioned dumpsters and lighting.

L. Maserian: Proposed screened dumpster. Lighting has parking lighting and willing to work on lighting plan.

T. Hoopes: Lighting to be shaded and not leave the property.

T. Hoopes: Inquired about the dividing of the waterfront slips.

L. Maserian: Informed that under the deck open, up above will be divided.

T. Hoopes: Asked about commercial usage.

L. Maserian: Stated they are looking at gift boutique style.

T. Hoopes: Asked for anymore questions from the Board.

J. Crouse: Stated that the Fire Marshall in his November 3 letter stated there will be no vehicle parking in front of the building and yet there is parking depicted on the plan.

M. Gulbrandsen: Confirmed that the Fire Chief wants to make sure the driving area in front of the building is open.

L. Maserian: Stated he will be glad to address that with the Fire Chief. He cannot imagine that they would want the apparatus right next to the fire.

C. Blackstone: Stated the when the Selectmen have done Vender Licenses for camping and tool, there has been ample room for traffic flow and parking.

D. Hoitt: In the past drive through was originally a one way but has been worn off from the pavement.

J. Crouse: Read from the Fire Marshall letter. There shall be no vehicle parking directly in front of the building. A fire Lane will be required across the front of the building to allow for placement of Emergency equipment. The entrance to the parking lot in that area is narrow and if parking is allowed on both sides of the roadway in front of the building, Emergency Equipment will not be able to access the front of the building or set up if a problem should arise. She understands that the discussion previously is that it is not a problem, but she is reading what the Fire Chief wrote.

D. Hoitt: Stated she has never received a copy of that letter.

M. Gulbrandsen: Stated that they would be happy to sit down with the Fire Chief and discuss this issue and work out what he deems necessary to address this concern.

T. Hoopes: Stated that Attorney Sessler mentioned on the Brandt application was to show where the common land is.

M. Gulbrandsen: Informed that LCA stands for Limited Common Area.

J. Crouse: Asked how they will restrict overnight in public parking areas?

K. Menici: No overnight parking allowed and is Police Department jurisdiction. Purchasers of units will have to be strongly aware of this no parking rule.

T. Hoopes: Asked if they plan to mark private parking?

L. Maserian: Informed they will be marked with private parking signs.

T. Hoopes: Confirmed with the Planned that notice for subdivision plan will be noticed for next month's meeting.

K. Menici: Confirmed that if that is how the Board wishes to proceed.

T. Hoopes: Open to public.

Richard Saulnier: owner of condo unit one. Speak on behalf of proposal. Feels the project will preserve the structure and by putting retail units for Mt. Washington boat guests and other visitors.

Steve Longmuir: Property owned for seven year, feels this will be an asset to the community.

Mr. Carbone from the Laconia Sun was told his question cannot be addressed and need to be addressed to the applicant.

Representative Lori Boyce asked a question regarding septic and feels this has been addressed tonight.

T. Hoopes: Closed public session.

T. Hoopes: Suggest continuing this.

**Motion** by Jeremy Dube to continue Case P05-83, Daryl Breed Hoitt, Condominium conversion site plan to the February 21, 2006 meeting. Second by Jeane Crouse. Discussion.

M. Guldbrandsen: Asked for closure for this tonight for the site plan.

J. Crouse: Prefers to have clarification from the Fire Chief on the parking issues before making a decision.

B. Holmes: Stated he would like to approve them together because there are questions.

K. Menici: Added to Ms. Crouse's concerns asked for any other concerns other than the fire chief.

T. Hoopes: Wants a letter from Bill Evans.

Voted Unanimous.

**Tom Varney rejoined the Board at this time.**

**Other Business:**

1. Approval of Minutes December 20, 2005, Planning Board meeting.
2. Old Business: None to follow-up on.
3. New Business:



1. Driveway/ Building Permit Request submitted by Van E. Hertel for M/L 15/66. Noted a memo from the Town Administrator and attached to that memo was an application submitted by Mr. Hertel and in addition to that application there were comments submitted by Highway, Fire, and Police department with concerns on this issue. Primary concern expressed by Fire Chief and Highway Agent was that the road in its current condition does not meet minimum safety standards. The recommendation was that the application be denied unless the applicant agrees to upgrade the road to meet minimum safety standards. The Board does not make the decision; the decision will be made by the Board of Selectmen. The Planning Board role is to review comments and make a formal recommendation on the action the Board feels the Selectmen should take. Tom Hoopes knows the road well and feels there are some extenuating circumstances that are not shown on application. Noted he is the town appointed warden for the Gilman's Pond property which abuts this property. He personally has maintained the road for about 35 years. Has blown out the stone culverts for many years and knows the road and the area intimately. Mr. Hoopes stated that Lot 66 that has 53 acres where there is a building permit request and to upgrade the road. It is his understanding that Lot 66-2 has been sold and the next lot down the road is either a Purchase and Sales or already sold to David Witistrum. Stated that is another 2400 feet that will be coming to the Town for a rebuild at some juncture. Noted it is not just 1800 feet, it is a substantial amount more. Also Mr. Hoopes noted the same recommendation on these class 6 roads be forwarded to the Selectmen but feels that the permission that is being granted is for existing lots that are on the road, anything that is a subdivision has to bring the road up to Town specifications. Tom Varney inquired of Tom Hoopes' responsibility regarding Lot 71. Mr. Hoopes stated he is town appointed warden (for approximately 500 acres of Town of Alton owned land) to report to conservation commission. Mr. Varney questioned if Mr. Hoopes should step down for this case due to a conflict of interest. Mr. Hoopes felt he wanted the Board to know of his position, discussed this with the Town Planner and does not feel this is a conflict of interest. Jeremy Dube inquired if this is just for a recommendation to the Board of Selectmen. Bruce Holmes inquired if they are just interested in upgrading the road, why not let him do it. Mr. Hoopes agreed but he referred to the Road Agent's report that there are no ditches. Mr. Hoopes added that when they put ditches and culverts in the water will be shunted across the road on to Town property. They simply need to get an easement to do that. Mr. Holmes and Mr. Hoopes discussed that he would need to get the easements from the Conservation Commission. Jeremy Dube added that if the Selectmen approve this they will make that a part of their approval. Mr. Hoopes noted that this land is Town owned land but under the care and custody of the Conservation Commission. Jeanne Crouse stated this is one of the recommendations that they can make to the Selectmen.

**Motion** by Jeremy Dube the approval of the application on Map 15, Lot 66 with the recommendation to the Selectmen that they consult with the Conservation Commission about any draining easement issues. Second by Jean Dube, no discussion, Vote unanimous with 1 abstention by C. Blackstone.

2. Discussion of the Office of Energy and Planning (OEP) Spring Conference on Saturday April 1. They will be posting agenda on website by Feb 1st. Remind Board members who were interested in attending workshop conducted by Sylvia Van had done Basic Plan Reading 101 need to register early to get a spot. Members interested in attending either sessions call the Town Planner so she can register you.

3. State Subdivision approval – drive or ride? Related to the number of state subdivision applications for approval and they have not seen applications. Kathy Menici stated there have been situations in the past where applicants have come before the Planning Board with a subdivision plan and the Board was not really happy with the proposal and the agents for the property owners came to the Board with their State subdivision approval and felt they had the right to sign off on this because they had state approval even though they did not have local approval. During a discussion she had with Bill Evans regarding the Pavilion, this issue came up again and Ms. Menici state concern. Mr. Evans quoted State Statute that clearly stated that an applicant will obtain local

approval first and then submit a signed copy of the locally approved plat with their State Subdivision application and at that point the State will review the application. But Ms. Menici stated that the reverse is happening. When she questioned Mr. Evans about this problem and referred to the State Statute, and was unable to get a straight answer on this. She added that Mr. Evans stated that the Town of Alton contacted his office and told them to approve any subdivision applications. He could not refer to when or who told him to do this. Mr. Evans asked if the Town wanted to “drive or ride”. He explained this as the Town driving the process or ride on his coattails. She replied that the Board members here in Alton want to have the opportunity to review and decide on applications without any outside pressures and she will notify him of the Board’s decision, in writing, after the next regular meeting and have the Board vote on it. Ms. Menici stated that at the February meeting there will be 2-4 new applications coming in front of the Board that already have State subdivision approval and the agents for the applicants are planning to come to the meeting with their approval and are expecting the Board to sign off on their plats with approval. She added that her comment to Bill Evans about that process was what sense was there to have local zoning?

**Motion** by Jeremy Dube that the Planning Board contact Mr. Bill Evans indicating that they should not act on State subdivision applications until the Town of Alton has submitted an approval. Second by Cris Blackstone. Discussion by T. Varney regarding the procedure for the submission of these applications. He added it doesn’t matter if the State approved it first. They have nothing without the Town of Alton approval. It should end with the Town of Alton approval. Ms. Menici and Mr. Hoopes added that State law indicates that they must get Town of Alton approval first. Mr. Varney stated he does not feel this has been done in the past. Voted 1 opposed and 4 in favor.

4. Correspondence: from Dan Weldon (noted that Mr. Weldon is present) looking for the Board to modify the conditions of approval for his subdivision and that issue, in particular, is they must have all of the approvals before the Mylars can be signed. Mr. Weldon is looking to register the Certification of Organization from the Secretary of State but Mr. Weldon’s attorney is doing this under 356-B which is the Condominium Act. Ms. Menici stated her concern why this is being done this way. In order to complete this Certification of Organization they need to have a signed Mylar that has been recorded. So they are looking for the Board to allow the Mylar to be recorded prior to obtaining all of the required State approvals. C. Blackstone noted this was not on the agenda. K. Menici noted this does not require public notice and would fall under correspondence. Mr. Hoopes spoke with Mr. Weldon as well and advised him to contact Alan Sherwood as well because he acted as the Planner, when he was Chair of the Board and were unaware of proceeding this way. It is not something that the Board is familiar with. Mr. Hoopes feels that his Mr. Weldon’s attorney is going one step beyond what is necessary.

**Motion** by Jeremy Dube to continue past 10:00 p.m. (Note this was made at 10:40 p.m.), Second Bruce Holmes, 1 opposed, 4 approved.

Continued with discussion regarding Mr. Weldon’s correspondence and request to waive the requirement.

Mr. Weldon stated he was approved on September 13, 2004 and has been trying to fulfill conditions. He has a bank that wants to make sure all conditions have been met before road construction can be started and that his Mylar is ready for recording. In going through the subdivision regulations, the bank’s attorney and his attorney have found a subdivision regulation that contradict what Attorney Sessler had interpreted differently. K. Menici interjected that she spoke with Attorney Sessler they were both of the opinion that it is the Secretary of State’s Office that you need a Certification of Organization from. She added that they are applying to the Attorney General’s Office for Condominium. Mr. Weldon stated that was incorrect and asked to distributed documents to the Board; Mr. Hoopes approved. It was noted that the K. Menici has not had a chance to review the documents that Mr. Weldon is distributing. Mr. Weldon explained that the document listed all the

issues that needed clarification on. But the two that he is specifically here for tonight are the two which deal with the waiver of the subdivision regulation number 7. Alton subdivision regulation 831 states, when compliance with the land sales full disclosure act, RSA 356.a as amended may pertain final approval will be conditional upon the subdividers showing either a Certificate of Registration or a Certificate of Waiver. He attached a copy of 356.a Land Sales Full Disclosure Act. K. Menici at this time asked for time to read these documents before discussion. T. Hoopes explained his understanding of the question that a certificate from the Secretary of State is necessary in order for his to record, but he cannot get the money from the bank unless it is recorded. Mr. Weldon added that he cannot get the certificate unless it is recorded. He also added that in speaking with Attorney Sessler, his opinion is that this regulation does not have anything to do with the Land Sales Discloses Act; that his interpretation of what this regulation means is (referring to number 9 of the letter) that there has to be a Homeowners Association formed with Articles of Organization and that with road maintenance provisions and that has to be recorded with the Secretary of State and the only thing that he needs to show the Town is that Certification of Registration with the Secretary of State. That is the way that Attorney Sessler interprets this but Mr. Weldon stated that this is definitely not what it says. K. Menici referred to the regulation that it states when compliance with the Land Sales Full Disclosure Act, RSA 356.a as amended (which is the Condominium Act), may pertain. Mr. Weldon interrupted and stated the Condominium Act is 356.b. Mr. Hoopes stated that Mr. Weldon is in a "catch 22." K. Menici stated that Attorney Sessler has indicated that Mr. Weldon's situation does not pertain to this referring to the words specifically "may pertain." She again stated that she and Attorney Sessler have told him they just need a Certificate of Organization from the Secretary of State. K. Menici will get this in writing from Attorney Sessler tomorrow (1/25/06) that the Land Sales Full Disclosure Act does not pertain.

No motion necessary, so noted that K. Menici will get in writing from Attorney Sessler that that the Land Sales Full Disclosure Act does not pertain to Mr. Weldon's situation requested in his correspondence that he distributed to the Board this evening.

5. K. Menici submitted to the Board her Rationale Statement, requested by the Board, for each Warrant Article for the Zoning Amendments. She asked for feedback from the Board so she can submit this to the Town Administrator. C. Blackstone noted she was very pleased with the Rationale Statements, they are clear and was able to look at this and noted that in Article 8 to not use the algebraic sign for greater than and less than. Felt her rationale statements captured the spirit of the statement and read very well. J. Crouse noted in Article 3 that there are two parts and the first part is to amend the definition of one resident of the household age 62 years or older and the second part is to include the various facilities that are limited to the people on the property. The Rationale only addresses one of those two. K. Menici so noted and will modify that. T. Varney stated he did not have any problems with the statements and they he had read them. J. Dube agreed. T. Hoopes agreed and added they add clarity.

6. Workshop date set by email through Kathy Menici., Scheduled for 6:30 on February 21 with Phil Lorian, the representative of the Historical Society. The Historical Society is working with the Downtown Revitalization Committee.

Representative Lori Boyce spoke to the Planning Board regarding some changes. The first was for violations by applicants. Stated that currently the penalty for violations is \$275.00, the first day and \$550 for every other day following. There is a proposed change for \$275.00 for the first day or what the Town specifies. The second was prohibiting candidates who are not voted on to be elected cannot be made an alternate for a period of one year. If they run and get elected they can be made an alternate. Board discussion regarding this change and they felt this would not apply to small towns. Recommended to Ms. Boyce to vote against this from the perspective of our style town. The third issue was regarding the acceptance of applications by planning boards. T. Hoopes felt her coming to

the Board periodically with these issues is helpful to hear what is going on. Ms. Boyce stated she would like to come to their meetings. The Board thanked her for her work and representation.

**Motion** to adjourn by Jeremy, Second by J. Crouse, Vote unanimous.

**Adjournment**

Thomas C. Hoopes, Chairman

Respectfully submitted,  
Carolyn B. Schaeffner  
Recording Secretary